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FAX (202) 861-1783 • TELEX 2357276
WRITER'S DIRECT DIAL NUMBER (202) 861-1580

May 13, 1993

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BY HAND

Donna R. Searcy, Secretary
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

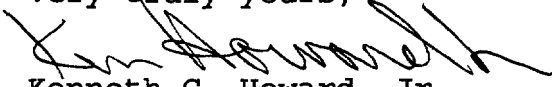
Re: Scripps Howard Broadcasting Company
MM Docket 93-94

Dear Ms. Searcy:

Transmitted herewith, on behalf of Scripps Howard Broadcasting Company, licensee of Station WMAR-TV, Baltimore, Maryland, and an applicant for renewal of license in the above referenced proceeding, is an original and six (6) copies of its Motion to Enlarge Issues to Add an Issue Considering Use of Professional Management.

If you have any questions regarding the above matter, please contact the undersigned.

Very truly yours,


Kenneth C. Howard, Jr.
Counsel for
Scripps Howard
Broadcasting Company

cc: The Honorable Richard L. Sippel (by hand) (with enclosures)

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In re Applications of)	MM Docket No. 93-94
)	
Scripps Howard Broadcasting)	FCC File No. BRCT-910603KX
Company)	
)	
For Renewal of License of)	
Station WMAR-TV,)	
Baltimore, Maryland)	
)	
and)	
)	
Four Jacks Broadcasting, Inc.)	FCC File No. BPCT-910903KE
)	
For a Construction Permit)	
For a New Television)	
Facility on Channel 2 in)	
Baltimore, Maryland)	

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MAY 13 1993

TO: The Honorable Richard L. Sippel
Presiding Administrative Law Judge

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

**MOTION TO ENLARGE ISSUES TO ADD AN
ISSUE CONSIDERING USE OF PROFESSIONAL MANAGEMENT**

Scripps Howard Broadcasting Company ("Scripps Howard"), licensee of Station WMAR-TV, Baltimore, Maryland, through counsel, hereby respectfully requests the addition of an issue to permit the formal introduction of evidence, under the "best practicable service" criterion, that a comparative preference is warranted for Scripps Howard's utilization of professional management. Upon the addition of the issue, Scripps Howard will demonstrate its practice of selecting qualified professionals for station management positions and will seek enhancement of the weight given to this issue in this proceeding by demonstrating the exceptional record of Station WMAR-TV's professional manager, Scripps Howard Vice President Arnold J. Kleiner.

Scripps Howard further asks that the general weight accorded this criterion be equal to that afforded a proposal for the one hundred percent integration of ownership and management with comparable enhancements. Alternatively, Scripps Howard requests that the integration of the principals of Four Jacks Broadcasting, Inc. ("Four Jacks") into their proposed operation--irrespective of the merit of their showing--be accorded no weight in this proceeding.


In support of its request, Scripps Howard offers the following:

- (1) It is irrational for the Commission to give significant comparative weight in some cases to the qualifications of a station's proposed manager, but to limit that consideration exclusively to the limited class of managers who are also owners of the licensee.

The D.C. Circuit Court of Appeals has recently remanded back to the Commission for further consideration two decisions based on applying the integration policy. As the court held in Bechtel v. FCC, 957 F.2d 873 (D.C. Cir. 1992) and Flagstaff Broadcasting Foundation v. FCC, 979 F.2d 1566 (D.C. Cir. 1992), the Commission cannot continue to apply its integration policy as now formulated in the face of a reasoned challenge to the policy's validity and absent some demonstrated support for the policy's continued application. See Flagstaff Broadcasting Foundation, 979 F.2d at 1570 (quoting Bechtel).

In fact, when the Commission has actually considered the merits of the integration policy, it has conceded that the policy lacks any firm support. For example, in a Commission statement

offered as testimony to Congress in 1976, the Commission said (in support of eliminating comparative renewal hearings), "there is no logic which necessarily compels the conclusion that a station owned and operated by local residents will be more responsive to the public interest than one that is operated by professional management." See Report of the Federal Communications Commission to the Subcommittee on Communications re the Comparative Renewal Process (1976). Just last year, the Commission expressed the



introduction of relevant predictive evidence concerning the qualifications of non-integrated managers.

- (2) While licensee business structures based on the integration of ownership and management appear to be highly unstable, the continuity of exceptional professional management is encouraged by market forces and is thus inherently more reliable.

As was demonstrated in Bechtel, the Commission has no basis for believing that parties who successfully pursue a broadcast license through an integrated business structure will maintain that structure beyond the minimal time period required by the Commission. See Bechtel, 957 F.2d at 879-881. Further, it may be expected that the competitive forces and extremely high capital requirements associated with offering television service in a major market tend to work against the continuation of such arrangements. Certainly, the presence of a substantially integrated owner/manager at a major market television station is unusual. As competition increases and the capital demands associated with the wholesale industry conversion to advanced television service become even more intense, the ability of integrated owner/managers to compete successfully will diminish further.

On the other hand, the use of professional management is the broadcast industry standard, and the continuity of successful management relations is strongly encouraged by permanent market forces, not a temporary government fiat. As the Commission has recognized in its deregulation orders, licensees have strong marketplace incentives to offer programming which is responsive

to community needs. See, e.g., Deregulation of Television, 98 F.C.C.2d 1076, 1077 (1984). A successful station manager thus is likely to be rewarded for successfully addressing those needs by his or her continued employment. Indeed, the stability of a successful management team may extend even beyond ownership changes, as has occurred at Station WMAR-TV.

These market incentives for the stability of good professional management and the related market disincentives to the stability of integration proposals offer strong evidence that it would be irrational for the Commission to consider the latter's qualifications while wholly ignoring the extraordinary personal qualifications of WMAR-TV's longstanding professional manager.

- (3) Scripps Howard's local general manager at WMAR-TV is responsible for the ascertainment of community needs and interests and for presenting programming to address those needs.

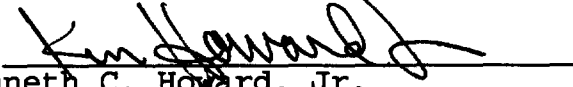
Scripps Howard's local general manager is responsible for ascertaining local community needs and interests and for developing and presenting programming that addresses those needs and interests. The amounts and general type of such programming presented are affected by group policies encouraging such programming, but the local general manager decides what specific programs air on his station. Accordingly, the general manager's relationship to the local community and broadcast experience are just as relevant to the station's operations as such factors would be for an owner/manager. Further, since here it can be

show that Senior Howard is professional manager has strong ties

Jacks Broadcasting, Inc. receive no credit for integration,
irrespective of its showing on that issue.

Respectfully submitted,

SCRIPPS HOWARD BROADCASTING COMPANY

By: 

Kenneth C. Howard, Jr.

Leonard C. Greenebaum

David N. Roberts

BAKER & HOSTETLER

1050 Connecticut Avenue, N.W.

Suite 1100

Washington, DC 20036

(202) 861-1500

May 13, 1993

Counsel to Scripps Howard
Broadcasting Company

AFFIDAVIT OF TERRY H. SCHROEDER

I, Terry H. Schroeder, based on my personal knowledge, do hereby affirm and state as follows:

1. I am Vice President of Scripps Howard Broadcasting Company.

2. I have reviewed Scripps Howard Broadcasting Company's Motion to Enlarge Issues to Add an Issue Considering the Use of Professional Management. The factual information contained therein is true and correct to the best of my knowledge.

I declare under penalty of perjury that the foregoing is true and correct.

Date: May 13, 1993

By: _____

Terry H. Schroeder
Terry H. Schroeder
Vice President
Scripps Howard
Broadcasting Company

Certificate of Service

I, Ruth E. Omonijo, a secretary in the law offices of Baker & Hostetler, here certify that I have caused copies of the foregoing "Motion to Enlarge Issues to Add an Issue Considering Use of Professional Management" to be hand-delivered this 13th day of May, 1993 to the following:

The Honorable Richard L. Sippel
Presiding Administrative Law Judge
Federal Communications Commission
2000 L Street, N.W.
Room 214
Washington, DC 20554

Martin R. Leader, Esq.*
Fisher Wayland Cooper & Leader
1255 23rd Street, N.W.
Suite 800
Washington, DC 20037
Counsel to Four Jacks
Broadcasting, Inc.

Norman Goldstein, Esq.
Hearing Branch-Mass Media Bureau
Federal Communications Commission
2025 M Street, NW
Room 7212
Washington, DC 20554

Robert Zauner, Esq.
Hearing Branch-Mass Media Bureau
Federal Communications Commission
2025 M Street, NW
Room 7212
Washington, DC 20554


Ruth E. Omonijo

* By U.S. Mail.